

CHAPTER 101
GARDEN STATE HISTORIC PRESERVATION
TRUST FUND GRANTS PROGRAM

Authority

N.J.S.A. 13:1B-15.114(c) and 13:8C-42.

Source and Effective Date

R.2011 d.024, effective December 14, 2010.
 See: 42 N.J.R. 1455(a), 43 N.J.R. 173(d).

Chapter Expiration Date

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, expires on December 14, 2015.

Chapter Historical Note

Chapter 34, Garden State Historic Preservation Trust Fund Grants Program, was adopted as R.2000 d.264, effective July 3, 2000. See: 31 N.J.R. 3917(a), 32 N.J.R. 2457(a).

Pursuant to Reorganization Plan No. 001-2002, Chapter 34 of Title 15, Garden State Historic Preservation Trust Fund Grants Program, was recodified as Chapter 101 of Title 5, effective November 18, 2002. See: 34 N.J.R. 3565(a), 35 N.J.R. 1558(b).

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, was readopted as R.2005 d.423, effective November 2, 2005. See: 37 N.J.R. 2598(a), 37 N.J.R. 4534(a).

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, was readopted as R.2011 d.024, effective December 14, 2010. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:101-1.1 Purpose
- 5:101-1.2 Severability
- 5:101-1.3 Definitions

SUBCHAPTER 2. APPLICATION PROCEDURE AND ELIGIBILITY FOR HISTORIC PRESERVATION GRANTS

- 5:101-2.1 Eligible applicants
- 5:101-2.2 Eligible properties: construction grants
- 5:101-2.3 Eligible properties: planning grants
- 5:101-2.4 Activities eligible for funding: construction grants
- 5:101-2.5 Activities eligible for funding: historic site management grants
- 5:101-2.6 Ineligible costs
- 5:101-2.7 Procedures
- 5:101-2.8 Matching funds: construction grants
- 5:101-2.9 Matching funds: historic site management grants

SUBCHAPTER 3. ALLOCATION OF HISTORIC PRESERVATION GRANT FUNDS

- 5:101-3.1 Allocation of historic preservation grant funds
- 5:101-3.2 Criteria for review and ranking of applications for historic preservation grants
- 5:101-3.3 Proposed action by New Jersey Historic Trust if a recommended project is deleted by the Garden State Preservation Trust
- 5:101-3.4 Commencement of project and payment: construction grants
- 5:101-3.5 Commencement of project and payment: historic site management grants

- 5:101-3.6 Grant amount: construction grant
- 5:101-3.7 Grant amount: historic site management grant
- 5:101-3.8 Reallocation of lapsed grant funds

SUBCHAPTER 4. EASEMENT (COVENANTS)

- 5:101-4.1 Easement on the historic property

SUBCHAPTER 5. ACKNOWLEDGMENT OF PUBLIC SUPPORT: PROJECT SIGNS AND PUBLIC INFORMATION MATERIALS

- 5:101-5.1 Project signs and public information materials

SUBCHAPTER 1. GENERAL PROVISIONS

5:101-1.1 Purpose

This chapter constitutes the rules of the New Jersey Historic Trust “in but not of” the Department of Community Affairs for the Garden State Historic Preservation Trust Fund Program for the award of grants on a competitive basis for the preservation, restoration or rehabilitation of historic properties in accord with the Garden State Trust Fund Act, N.J.S.A. 13:8C-1 et seq.

5:101-1.2 Severability

If a court of competent jurisdiction declares any portion of this chapter invalid, the remainder of this chapter is not to be affected.

5:101-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Garden State Trust Fund Act, N.J.S.A. 13:8C-1 et seq.

“Applicant” means the local government unit or nonprofit organization that submits an application for a historic preservation grant.

“Approved project period” means the amount of time prescribed in the project agreement in which the grant recipient must complete satisfactorily the approved historic preservation project to be eligible for the full funding authorized for the project.

“Construction grant” means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning and/or undertaking the preservation, restoration or rehabilitation of a historic property.

“Deputy Historic Preservation Officer” means the person designated in writing by the Commissioner of the Department of Environmental Protection to administer the State Historic

Preservation Program to identify and nominate eligible properties to the State and National Registers of Historic Places.

“Fund” means the Garden State Historic Preservation Trust Fund.

“Garden State Preservation Trust” means a public body corporate and politic, with corporate succession, established in but not of the Department of the Treasury.

“Grant agreement” means a document executed by the New Jersey Historic Trust and a grant recipient which provides a specified amount of grant assistance for a historic preservation project approved by the Trust and subject to conditions to assure benefit to the public, compliance with public laws, and continued preservation of the property, structure or site.

“Grant recipient” means the applying local government unit or nonprofit organization named in a project agreement executed with the Trust that has been selected to receive grant funds for a historic preservation project.

“Historic” as applied to any property, structure, facility or site means any area, site, structure, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L. 1970, c.268 (N.J.S.A. 13:1B-15.128 et seq.).

“Historic preservation grant” means monies approved by the New Jersey Historic Trust to fund a historic preservation project.

“Historic preservation project” means work directly related to the restoration, preservation or rehabilitation of a historic property, structure, facility or site, and shall include: any work related to providing access thereto for handicapped or disabled persons in accord with the Americans with Disabilities Act, 42 U.S.C.A. § 12101 to § 12213 and the State Barrier Free Subcode, N.J.A.C. 5:23-7; and work directly related to the planning for future preservation activities at a historic property, structure, facility or site; and site management activities at a historic property, structure, facility or site.

“Historic preservation project cost” means the expenses incurred in connection with:

1. All things deemed necessary or useful and convenient in connection with historic preservation projects;
2. The execution of any agreements or franchises as determined by the New Jersey Historic Trust to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys;
3. The procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies;

4. Management related to the funded project;

5. The undertaking of feasibility studies; and

6. Reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by the act, or any moneys that may have been expended therefrom for, or in connection with, the Act.

“Historic site management grant” means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning for the preservation, restoration or rehabilitation of a historic property, determining the feasibility of proceeding with a capital historic preservation project, or activities that aid in strengthening the local government unit or nonprofit organization’s capabilities to operate and sustain a historic site and enhance their ability to serve the public and further their mission.

“Improvement” means the act of upgrading the basic physical condition of a property in a manner consistent with the Secretary of the Interior’s Standards. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building codes.

“Local government unit” means, with respect to historic preservation projects, a county, municipality, or any agency thereof, which owns or leases on a long-term basis a historic property, or intends to own or lease on a long-term basis a historic property.

“Master Planning” is the term used to describe any of the following activities: preparation of historic preservation plan, historic structure report, site master plan, landscape plan, and feasibility study.

“National Register of Historic Places” means the national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.)

“New construction” means the act or process of constructing new forms, features, and/or details that did not exist before.

“New Jersey Register of Historic Places” consists of areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection is authorized to maintain and expand under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128 et seq.

“Nonprofit organization” means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq., qualified for tax-exempt status under the

Internal Revenue Code of 1986 (26 U.S.C. § 501(c)), and meets State and Federal requirements.

“Planning” means the act or process of developing a procedure or design for the preservation, restoration or rehabilitation of a historic property.

“Preservation” means the act or process of applying measures necessary to sustain the existing form, integrity, and material of a historic property.

“Property” means the historic site, structure, facility or object that is the subject of the historic preservation project.

“Reconstruction” means the act or process of depicting by means of new construction the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

“Secretary of the Interior’s Standards” means the Standards for the Treatment of Historic Properties (Revised 1995) adopted by the Secretary of the United States Department of the Interior, as from time to time modified, changed or amended, incorporated herein by reference.

“Site” means the location of a significant event, prehistoric or historic occupation or activity, or a building or structure whether standing, ruined, or vanished where the location itself maintains historic or archaeological value regardless of the value of any existing structure.

“Site management” means the act or process of developing procedures or plans for the long-term viability of a historic property or the organization managing the property.

“State Historic Preservation Officer” means the Commissioner of the Department of Environmental Protection designated by the Governor to administer the State Historic Preservation Program to identify or nominate eligible properties to the New Jersey and National Registers of Historic Places. The State Historic Preservation Officer establishes the procedures and criteria under N.J.A.C. 7:4 for receiving and processing nominations and approving areas, sites, structures and objects, both publicly and privately owned, for listing in the New Jersey Register of Historic Places.

“State Review Board” means the public body whose members represent the professional fields of American history, architectural history, prehistoric and historic archaeology, and other professional disciplines who are appointed by the State Historic Preservation Officer to approve nominations to the New Jersey Register of Historic Places based on whether or not they meet the criteria for evaluation in N.J.A.C. 7:4-2.3.

“Structure” means a work constructed by humans and made up of interdependent and interrelated parts in a definite pattern or organization.

“Trust” means the New Jersey Historic Trust, a body corporate and politic with corporate succession established in but not of the Department of Community Affairs under N.J.S.A. 13:1B-15.111.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Added definitions “Grant agreement,” “New construction” and “New Jersey Register of Historic Places”; in definition “Historic preservation project cost”, recodified paragraphs 4-5 as 5-6 and added paragraph 4, and in “State Historic Preservation Officer”, substituted “New Jersey” for “State” in two places; deleted definitions “Project agreement” and “State Register of Historic Places”.

SUBCHAPTER 2. APPLICATION PROCEDURE AND ELIGIBILITY FOR HISTORIC PRESERVATION GRANTS

5:101-2.1 Eligible applicants

(a) Local government units and nonprofit organizations that own or lease on a long-term basis a historic property, or intend to own or lease on a long-term basis a historic property, and have the property owner’s written consent to submit an application, are eligible to submit applications for historic preservation construction grants.

(b) Local government units, and nonprofit organizations that are interested in the preservation, restoration, rehabilitation or long-term viability of a historic property and have the property owner’s written consent to submit an application, are eligible to submit applications for historic site management grants.

5:101-2.2 Eligible properties: construction grants

(a) At the time of the Trust’s receipt of the application for a construction grant, the property for which the application is submitted must satisfy (a)3 below and either (a)1 or 2:

1. The property must be owned in fee simple by the applicant; or
2. If the property is not owned in fee simple by the applicant, the applicant must have an executed lease with the property owner. An acceptable lease shall abide by the following conditions:

- i. The lessor cannot revoke the lease at will;
- ii. The unexpired term of the lease is 15 years or more as of the date project funds are appropriated by the Legislature and signed into law;
- iii. No form of agreement between the applicant and the owner other than a lease or National Park Service Cooperative Agreement is acceptable; and
- iv. All leases will be referred to the Attorney General for review and approval before funds can be released for a historic preservation project awarded a grant; and

3. The property is:

- i. Listed individually in the National or New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4;
- ii. Located within a historic district listed in the National or New Jersey Register of Historic Places and identified in the nomination of the district as contributing to its significance; or
- iii. Certified by the State Historic Preservation Officer that the property, structure, facility, or site is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) If the property is not listed in the National or New Jersey Register of Historic Places at the time of application, the property must be listed within 18 months from the time funding is appropriated or the grant award will lapse. Before any grant money is disbursed to a recipient, the property must meet the requirements of (a)3i or ii above.

(c) The Trust shall require as a condition of a construction grant awarded to a qualifying nonprofit organization that the historic property for which the construction grant is received shall not be sold, leased, or otherwise conveyed to an individual or to an organization that does not have tax exempt or governmental status, during the grant agreement period, without the consent of the Trust.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote the section.

5:101-2.3 Eligible properties: planning grants

(a) At the time of the Trust's receipt of the application for a planning grant, the property for which the application is submitted must be owned in fee simple or leased by the applicant; or, if the property is not owned or leased by the applicant, to submit an application, the applicant must obtain the written consent of the property owner. In addition, the property must be:

1. Listed individually in the National or New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4;

2. Located within a historic district listed in the National or New Jersey Register of Historic Places and identified in the nomination of the district as contributing to its significance; or

3. Certified by the State Historic Preservation Officer that the property, structure, facility, or site is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) If the property is not listed in the New Jersey Register of Historic Places, the application may include a request for funding the cost of a nomination to the New Jersey or National Register. The written consent of the property owner to list the property must be submitted with the application.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Substituted "New Jersey" for "State" throughout; made grammatical changes throughout; in (a)3, deleted "Before any grant money is disbursed to a recipient, the property must meet the requirements of (a)1 or 2 above".

5:101-2.4 Activities eligible for funding: construction grants

(a) The following activities are eligible for a construction grant by the program:

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Improvements as part of a preservation or rehabilitation project;
5. Reconstruction of a documented part of a historic structure as part of a restoration, preservation, or rehabilitation project;
6. Project signs, required under N.J.A.C. 5:101-5;
7. Interpretive or directional signs, or plaques, approved or required by the Trust for funding as part of a historic preservation grant;
8. Archaeological data recovery as part of construction activity;
9. Non-construction activities related directly to the professional management, development, implementation, operation and monitoring of historic preservation projects by outside consultants may be funded in an amount not to exceed 20 percent of the total project costs approved for a historic preservation grant. Non-construction activities eligible for reimbursement are:

- i. Architectural plans, designs, specifications, cost estimates, reports and other contract documents;
- ii. Feasibility studies;
- iii. Historic structure reports;

- iv. Historic landscape reports;
- v. Archaeological investigations and reports;
- vi. Engineering reports;
- vii. Historic research reports, including preparation of a nomination for the site for which a construction grant is requested to the New Jersey or National Register of Historic Places; and
- viii. Programs to educate the public about the history of the site;

10. Non-construction activities for non-sectarian, non-profit organizations related directly to qualified, on-site project management of historic preservation projects. The management costs may be funded in an amount not to exceed 10 percent of the total project costs approved for a historic preservation grant; and

11. The consulting and on-site management costs together may not exceed 20 percent of the total project costs approved for a historic preservation grant.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote (a).

5:101-2.5 Activities eligible for funding: historic site management grants

(a) The following activities are eligible for a historic site management grant by the program:

- 1. Preparation of the following documents or reports for the purpose of planning for the preservation, restoration, rehabilitation of a historic property:
 - i. Condition assessment reports;
 - ii. Existing conditions documentation to Federal or State recordation standards;
 - iii. Historic structure reports;
 - iv. Historic landscape reports;
 - v. Archaeological investigations and reports;
 - vi. Engineering reports;
 - vii. Historic research reports;
 - viii. Analysis of existing building systems (for example, electrical, security, environmental controls) and recommendations for improvement;
 - ix. As part of master planning for a historic site, analyzing, planning, designing, or adapting spaces in the property(ies) for new uses which will benefit the community. The plan should contain cost estimates associated with any changes; and
 - x. Maintenance plans;

2. Feasibility studies;

3. Preparation of architectural plans, designs, specifications, cost estimates, and other contract documents;

4. As part of master planning for compliance with the Americans with Disabilities Act (ADA), including:

- i. Evaluations of ADA access requirements for a historic property;
- ii. Preparation of architectural plans, designs, specifications, cost estimates, and other contract documents for complying with ADA requirements; and
- iii. Development of materials or devices to help the disabled visitor (for example, videos, audio narratives, displays to aid the visually impaired);

5. Preparation of a nomination to the New Jersey or National Register of Historic Places for an individual property or site owned by a local government unit, nonprofit organization or a State entity or authority. (The consent and signature of property owner must be obtained);

6. Heritage tourism plans and programs; and

7. Preparation of the following documents or reports for the purpose of developing a procedure or design for the long-term viability of a historic property or its organization, including the following:

- i. Development of multi-year strategic plans;
- ii. Development of a fundraising plan for initiating capital campaigns for the preservation, restoration or rehabilitation of a historic property;
- iii. Development of interpretive and/or curriculum materials, signage or literature for visitors;
- iv. Development of endowment planning and proposals; and
- v. Visitor assessments which are part of a strategic plan or interpretive/curriculum development proposal.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote (a)lii.

5:101-2.6 Ineligible costs

(a) Costs incurred in the following activities are not eligible for funding by the historic preservation grant program:

- 1. Acquisition of real or personal property;
- 2. New construction, unless for access improvements and as part of a preservation or rehabilitation project;
- 3. Administrative or operational costs of the agency receiving funding, except as specified in N.J.A.C. 5:101-2.4(a)6;
- 4. Donated materials and/or donated in-kind services;

5. Expenses for publicity, unless stipulated in the grant agreement;

6. Charges more than the lowest responsive bid, when the State or the recipient requires competitive bidding, unless the Trust agrees in advance to the higher cost;

7. Charges for deficits or overdrafts;

8. Interest expense;

9. Damage judgments arising from constructing, or equipping a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;

10. Services, materials, or equipment obtained by a local governmental unit or nonprofit organization under any other State program;

11. Contract cost overruns, not approved, which exceed the allowable amount under contract specifications;

12. Costs for grant application expenses;

13. Lobbying;

14. Work including construction, research, and preparation of plans and reports performed outside the approved project period;

15. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;

16. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the overall project costs requested;

17. Work that does not comply with the Secretary of the Interior's Standards;

18. Work performed for a local government unit which has not been awarded in compliance with the State Contracts Law, N.J.S.A. 52:32-1 et seq., or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;

19. Work performed for a nonprofit organization that has not been awarded in compliance with the pre-qualification and bidding requirements of the Trust, unless the costs of the work performed totaled less than \$100,000 and was bid competitively;

20. Routine maintenance work;

21. Costs related to the interiors of buildings that are used primarily for a religious workshop or a religious purpose;

22. For construction grants, the costs incurred for planning and site management activities or documents that were funded by a planning grant;

23. Planning, refurbishing or installing permanent or temporary museum exhibits, except as noted in N.J.A.C. 5:101-2.5(a)4iii and (a)7iii; and

24. Collections management including:

- i. Cataloging an artifact or archival collection;
- ii. Appraising or documenting collections; or
- iii. Instituting conservation measures for artifacts.

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote (a)2 and (a)19; in (a)6, added "responsive"; in (a)16, changed fund spending maximum from 75 percent of the grant to 25 percent of the overall project costs.

5:101-2.7 Procedures

(a) The following steps constitute the historic preservation grant application procedure.

1. Announcement of grant rounds and the opening and closing dates for submission of historic preservation grant applications shall be published by the Trust in the major daily papers and periodicals circulated to the historical and preservation community, posted on the Trust's official web site, and published in the New Jersey Register, in accordance with N.J.S.A. 52:14-34.4 et seq.

2. The applicant must submit a separate written application for each historic preservation project.

3. Each project application shall contain sufficient information to ensure that the Trust is able to conduct an adequate and thorough review. Applications not complete at the time of submission will not be eligible for review. Applications shall be on forms provided by the Trust and must in all cases contain at least:

- i. A statement of the significance and condition of the property;
- ii. A description, justification, and statement of need for the proposed project;
- iii. Cost estimates for proposed work;
- iv. Photographic and other documentation;
- v. Information on the applicant organization's programs, outreach activities and finances;
- vi. As applicable, proof of the applicant's nonprofit and charitable registration status;
- vii. Evidence of matching funds commitment as specified at N.J.A.C. 5:101-2.8;
- viii. As applicable to a construction grant request, long-range plans for the future use and preservation of the property;
- ix. As applicable, the names and addresses of all owners, all parties with an ownership interest, and evidence of ownership or an interest in ownership of the historic property for which a grant is requested;

x. As applicable to a construction grant request, the names of lessors and lessees, and, if available, a copy of a long-term lease meeting the requirements of N.J.A.C. 5:101-2.2(a)3;

xi. If the property for which a grant is requested is not owned by the applicant, the application must contain the property owner(s) written consent to the submission of an application by an eligible entity; and

xii. If the property for which a grant is requested is not listed in the New Jersey or National Register of Historic Places, a certification by the State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a grant is requested is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

4. A notice of receipt for each application shall be sent by the Trust to each applicant.

5. The Trust will review each application for possible funding.

6. If the application is approved and funds are appropriated by law, funds are to be distributed in accord with an executed project agreement between the Trust and the applicant which specifies, among other things:

- i. The amount of grant;
- ii. The project period;
- iii. The project scope; and
- iv. Special requirements including, but not limited to, inclusion in the New Jersey Register of Historic Places.

7. Applications not funded in a given grant round shall not receive further consideration for funding by the Trust in that grant round; however, revised or new applications can be submitted in subsequent grant rounds.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote the section.

5:101-2.8 Matching funds: construction grants

(a) To be eligible for a construction grant for a historic preservation project under the "Garden State Historic Preservation Trust Fund," the applying local government unit and nonprofit organization, except as provided in (b) below, shall, as part of the application for construction grant, demonstrate the ability to match the grant requested by generating \$1.00 in funds for every \$1.00 of grant money requested in the application.

(b) Local government units and nonprofit organizations awarded grants up to \$100,000 are eligible for a 3:2 funding match in which the Trust may provide up to 60 percent of

project funding. The grant recipient is responsible for a minimum of 40 percent of project funding.

(c) Funds derived from the sale of debt of the State of New Jersey or special appropriations by the State Legislature shall not be used as the matching share of project costs by nonprofit organizations or local government units.

(d) Funds expended by the applicant up to two years prior to the time of application for historic preservation projects, and of which the project described in the application is a significant and substantial part, may satisfy the matching funds requirement enumerated in (a) and (b) above if:

1. As part of the application, the applicant submits plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;

2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;

3. The work was performed in accordance with the Secretary of the Interior's Standards; and

4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(e) An applicant's matching share shall consist only of eligible cash raised or eligible expenses incurred by the applicant. If matching funds have not been spent or are not in hand at the time of application, applicants must describe in detail plans for obtaining matching funds.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (b), decreased grant amount from \$200,000 to \$100,000; in introductory paragraph (d), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (d)4.

5:101-2.9 Matching funds: historic site management grants

(a) To be eligible for a historic site management grant for a historic preservation project under the "Garden State Historic Preservation Trust Fund," the applying local government unit and nonprofit organization shall, as part of the application for a historic preservation grant, demonstrate the ability to match the grant requested by generating \$1.00 in funds for every \$3.00 of grant money requested in the application. Evidence of applicant match must be presented at time of application.

(b) Funds derived from the sale of debt of the State of New Jersey or special appropriations by the State Legislature shall not be used as the matching share of project costs by nonprofit organizations or local government units.

(c) Funds expended by the applicant up to two years prior to the time of application for historic preservation projects,

and of which the project described in the application is a significant and substantial part, may satisfy the matching funds requirement enumerated in (a) above if:

1. As part of the application, the applicant submits plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;
2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;
3. The work was performed in accord with the Secretary of the Interior's Standards; and
4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(d) An applicant's matching share shall consist only of eligible cash raised by the applicant except as provided in (b) above or funds spent by applicant on an on-going historic preservation project as provided in (c) above.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In introductory paragraph (c), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (c)4.

SUBCHAPTER 3. ALLOCATION OF HISTORIC PRESERVATION GRANT FUNDS

5:101-3.1 Allocation of historic preservation grant funds

(a) In each grant round, historic preservation funds are to be allocated in accord with a ranking of applications received by the Trust, subject to availability and appropriation of funds under the Act. The ranking of applications is to be established by the Trust based on criteria set forth in N.J.A.C. 5:101-3.2.

(b) The Trust reserves the right to limit funding to less than the amount requested.

(c) Of the sum of the monies deposited in the "Garden State Historic Preservation Trust Fund," up to 10 percent of monies awarded by the Trust may be utilized for historic preservation projects or programs that aid designated historic or cultural districts, municipalities, or geographic areas, including, but not limited to, Certified Local Governments, Main Street New Jersey and Urban Coordinating Council communities.

5:101-3.2 Criteria for review and ranking of applications for historic preservation grants

(a) To determine priority for construction funding, all applications for eligible historic preservation projects in a given grant round are to be ranked based on the following competitive criteria:

1. Significance of resource, which shall involve consideration of the degree to which a property is historically, archaeologically, architecturally, or culturally significant in the State, under the evaluation criteria for the New Jersey and National Registers of Historic Places;
2. The physical condition of property, including any immediate threat of collapse, demolition or inappropriate use or development; notice of code violations; and deterioration requiring stabilization;
3. The overall quality of the work proposed for funding based on the following:
 - i. The quality of preliminary planning or contract documents submitted, including degree to which documents comply with the Secretary of the Interior's Standards;
 - ii. The credentials and experience of project team or consultants; and
 - iii. A realistic and feasible budget and schedule for work proposed for funding;
4. The availability of funds to match the requested grant;
5. The ability of the applicant to carry out the proposed work, develop programs to sustain and interpret the property, remain accessible to the public, and provide for the long-term protection of the property;
6. The impact of project, based on the following:
 - i. The ability of the project to create jobs or training opportunities;
 - ii. The potential of the project to promote investment in and promotion of cultural and historic assets;
 - iii. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, protect and preserve the built or natural environment, or improve or promote heritage education and tourism including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent; and
 - iv. The proposed use and interpretive program for site;
7. If, at the time of application, the applicant has no legal control over the property, either in the form of a valid 15 year lease or fee simple ownership, the Trust shall evaluate the likelihood in which ownership or the required lease will be obtained within the time set by N.J.A.C. 5:101-2.2(a)3ii;

8. The degree to which the proposed project represents innovative design or programming for a historic site and the degree to which the project reaches new audiences; and

9. The distribution of funds to achieve a geographical balance as well as a balance between sizes and types of projects, diversity of audiences served by projects, and diversity of historical or cultural periods.

(b) To determine priority for historic site management grants, all applications for eligible historic preservation projects in a given grant round are to be ranked on the basis of the criteria under (a)1, 2, 4, 8 and 9 above, and the following competitive criteria:

1. The overall quality of the planning and site management work proposed for funding based on the following:

i. The quality of the preliminary planning documents and the degree to which the documents comply with the Secretary of the Interior's Standards;

ii. The credentials and experience of the project team or consultants; and

iii. A realistic and feasible budget and schedule for work proposed for funding;

2. The ability of applicant to carry out the proposed work; and

3. The impact of the project, based on the following:

i. The potential for the plans and documents developed to be used as a tool to foster the protection, preservation, restoration or rehabilitation of the historic property by a local government unit or nonprofit organization;

ii. The potential of the project to promote other preservation activity or cultural or economic activities such as heritage tourism;

iii. The potential of the project to foster appropriate site management practices that will sustain the long-term and viable use of a historic property; and

iv. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, protect and preserve the built or natural environment, or improve or promote heritage education including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent.

Amended by R.2005 d.423, effective December 5, 2005.

See: 37 N.J.R. 2598(a), 37 N.J.R. 4534(a).

In (a)6iii and (b)3iv, substituted "No. 9" for "No. 10" and added "the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent".

5:101-3.3 Proposed action by New Jersey Historic Trust if a recommended project is deleted by the Garden State Preservation Trust

If the Garden State Preservation Trust deletes a project that has been submitted to the Garden State Preservation Trust by the New Jersey Historic Trust for approval, the Garden State Preservation Trust shall, in consultation with the applicant and the New Jersey Historic Trust, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the New Jersey Historic Trust continues to recommend funding of the project, it shall transmit its reasons in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust. The Garden State Preservation Trust shall include the project in the next legislation to appropriate moneys from the Garden State Historic Preservation Trust Fund and send it to the Governor, President of the Senate, and Speaker of the General Assembly for consideration, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the New Jersey Historic Trust in recommending retention of the project in the proposed legislation.

5:101-3.4 Commencement of project and payment: construction grants

(a) For a construction grant, a project agreement for a historic preservation project shall be in effect within 18 months of the effective date of the appropriation by law of the funds for the construction grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, work on a historic preservation project funded with a construction grant shall commence within two years of the effective date of the appropriation by law for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(c) After funds for a construction grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible under N.J.A.C. 5:101-2.4; which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Reimbursement is to be made under (c) above and must be substantiated by itemized invoices, canceled checks approved by the Trust, and referenced to completed tasks within the scope of the historic preservation project described in the project agreement. Invoices must itemize cost of labor and materials and describe the work performed for which reimbursement is requested. Invoices are to be submitted for

each reporting period set forth in the project agreement and shall be accompanied by other documentation defined in the project agreement.

(e) Up to 10 percent of the total amount of each grant is to be retained by the Trust. The Trust is to deduct as retainage an amount equal to up to 10 percent of each payment approved under (d) above. The retainage is to be kept by the Trust until the historic preservation project has been completed and met financial and project requirements, including submission of required reports.

(f) The Trust may choose to advance 10 percent of grant monies to nonprofit organizations before receipt of expenditure documentation. Until such documentation is received and approved, the Trust shall make no further payments beyond the 10 percent advanced.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (e), rewrote percentages from five percent to up to 10 percent throughout.

5:101-3.5 Commencement of project and payment: historic site management grants

(a) For a historic site management grant, a project agreement must be in effect within 18 months of the effective date of the appropriation by law for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, any work on a historic preservation project funded with a historic site management grant awarded under the Act shall commence within one year of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project will lapse into the Fund.

(c) After funds for the grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible for funding and which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Disbursement of 80 percent of the grant is to be made under (c) above once documentation of the following has been received by the Trust:

1. The project team or consultants have been retained;
2. An initial payment for retaining said project team or consultant has been paid by the grantee; and
3. A contract has been signed by both the consultant and grantee.

(e) Twenty percent of each grant is to be retained by the Trust until the project has been completed and met financial

and project requirements, including submission of required reports.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
In (a), substituted "18 months" for "12 months".

5:101-3.6 Grant amount: construction grant

The minimum construction grant awarded for a historic preservation project shall be \$5,000. The maximum construction grant that may be allocated to any historic property, structure or site in a funding round of the Garden State Historic Preservation Trust Fund is \$750,000.

5:101-3.7 Grant amount: historic site management grant

The minimum grant awarded for a historic site management project shall be \$5,000. The maximum historic site management grant that may be allocated to any one historic property, structure or site in a funding round of the Garden State Historic Preservation Trust Fund is \$50,000.

5:101-3.8 Reallocation of lapsed grant funds

(a) At the discretion of the Trust, funds from lapsed or terminated projects may be:

1. Reallocated to the Fund for distribution under a future round of funding; or
2. Reallocated to unforeseen construction expenses or other historic preservation grant-aided projects. Reallocated funds are limited to those preservation costs outlined in the project agreement. Reallocated funds shall not exceed 20 percent of the historic preservation grant. The process for the reallocation of said funds shall be determined by the Trust.

SUBCHAPTER 4. EASEMENT (COVENANTS)

5:101-4.1 Easement on the historic property

(a) To assure the continued preservation of historic properties receiving construction grants in excess of \$50,000 and owned by nonprofits, and to assure that public benefit continues after the expenditure of the grant moneys, the Trust shall not make grant assistance available until an easement agreement between the Trust and the nonprofit grant recipient and all other parties having an ownership interest in the historic property is recorded. The easement agreement shall include:

1. Provision for the continued preservation of the historic property;
2. Limitations on the right to change the use, alter, demolish or convey the property; and
3. Provisions for public access to the historic property.

(b) The period of the easement shall be determined by the aggregate total of grant assistance made available under this chapter, as follows:

1. From \$50,001 to \$100,000—15 years;
2. From \$100,001 to \$450,000—20 years; and
3. From \$450,001 to \$750,000—30 years.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote (b).

SUBCHAPTER 5. ACKNOWLEDGMENT OF PUBLIC
SUPPORT: PROJECT SIGNS AND PUBLIC
INFORMATION MATERIALS

5:101-5.1 Project signs and public information materials

(a) Once funds for a historic preservation construction grant have been appropriated, a sign acknowledging that the project has received grant assistance from the Garden State Historic Preservation Trust Fund Program administered by the New Jersey Historic Trust in but not of the New Jersey Department of Community Affairs must be located prominently and maintained on the project site.

(b) The project sign shall be fabricated and erected by the grant recipient in accord with specifications contained in the project agreement.

(c) The costs of making and erecting the project sign are eligible for funding under N.J.A.C. 5:101-2.4(a)4. The costs of replacing or maintaining the sign are not eligible for funding.

(d) The project sign shall remain prominently located and maintained on the project site until all grant funds are paid or the project is terminated.

(e) Upon completion of a project receiving construction grants of more than \$50,000 or at any time prior, the grantee shall affix a permanent sign or plaque to the property noting that the property is listed in the New Jersey or National Register of Historic Places, giving the year and the name of the property as listed in the records of the Register and describing the historical significance of the property.

(f) As applicable for New Jersey Historic Trust funding of construction and historic site management activities, the year preservation work was completed shall be acknowledged on the sign or plaque. The language used when crediting the New Jersey Historic Trust shall read as follows: "Funding has been made possible in part by the Garden State Historic Preservation Trust Fund administered by the New Jersey Historic Trust/State of New Jersey." Credit shall be given to the Trust in all printed materials, releases and announcements of the grantee regarding all activities to which the Trust funds contribute; this applies to all promotional appearances on television and radio by representatives of the grantee organization as well as newspaper interviews. In the case of electronic media, verbal credit shall be given at least once during a broadcast to acknowledge the support the grantee has received from the Trust to its overall operation.

(g) The Trust logo shall be used by the grantee in publicizing those programs or documents supported by a Trust grant (including, but not limited to, newsletters, brochures, and flyers). The logo is to be used only when the credit line stated in (f) above is also used and never in its place (as this implies sponsorship). Ideally, the logo should be reproduced as a unit without alteration.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (f), added "Fund" to language used when crediting the New Jersey Historic Trust.